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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/087,204

03/01/2002

Avery Li-Chun Wang

Landmark Digital Serv.-P0

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05/25/2006

DALLAS OFFICE OF FULBRIGHT & JAWORSKI L.L.P.

2200 ROSS AVENUE

SUITE 2800

DALLAS, TX 75201-2784

EXAMINER

LEROUX, ETIENNE PIERRE

ART UNIT

PAPER NUMBER

2161

DATE MAILED: 05/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/087,204	<b>Applicant(s)</b> WANG ET AL.	
	<b>Examiner</b> Etienne P LeRoux	<b>Art Unit</b> 2161	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 20 April 2006.
- 2a) ☒ This action is **FINAL**.      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 19-51 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 19-51 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 March 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Claim Status:***

Claims 19-51 are pending, claims 1-18 have been cancelled. Claims 19-51 are rejected as detailed below.

***Specification***

The disclosure is objected to because it contains an embedded hyperlink and/or other form of browser-executable code. Applicant is required to delete the embedded hyperlink and/or other form of browser-executable code. See MPEP § 608.01. Embedded hyperlinks are included at least in paragraph 11.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 19-28, 31-43 and 46-51 are rejected under 35 U.S.C. 102(b) as being anticipated by US Pat No 6,128,625 issued to Yankowski (hereafter Yankowski)

Claims 19, 27, 31-36, 42, 46, 50 and 51:

Yankowski discloses:

extracting a plurality of characteristics from a media sample [Fig 1 col 5, lines 45-65]

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transferring said plurality of characteristics to a server coupled with a database [external database, col 2, lines 30-40, col 2, lines 55-65]

processing the plurality of parameters into a plurality of fingerprints/landmark pairs; [fingerprints and Point value, col 6, lines 1-25]

storing said fingerprint/landmark pairs in said database [remote database 50, Fig 2]

Claims 20, 21, 47 and 48:

Yankowski discloses simultaneously transferring metadata to identify said media sample when transferring said plurality of characteristics [col 6, lines 1-25]

Claims 22 and 37:

Yankowski discloses processing is executed by an updateable or replaceable algorithm [Fig 8]

Claims 23 and 38:

Yankowski discloses prior to extracting said characteristics, determining whether or not said database already contains landmark/fingerprint pairs associated with said media sample [abstract].

Claims 24 and 39:

Yankowski discloses where said media comprises a compact disk or digital video disk [abstract]

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Claims 25 and 40:

Yankowski discloses where said media comprises a streaming video [abstract]

Claims 26 and 41:

Yankowski discloses where said media comprises a file stored on a user's computer [Fig 1]

Claim 27:

Yankowski discloses compiling a list of distinctive and reproducible points in time at which fingerprints should be calculated and calculating one or more fingerprints at one or more said distinctive and reproducible points in time [col 6, lines 1-15]

Claims 28 and 43:

Yankowski discloses a frequency value of the strongest spectral peak in proximity to a landmark [col 6, lines 25-45]

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 19, 35 and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yankowski in view of Applicant's Admitted Prior Art (hereafter AAPA) and further in view of US Pat No 5,829,004 issued to Au (hereafter Au).

Claims 19, 35 and 50:

Yankowski discloses extracting a plurality of characteristics from a media sample [Fig 1col 5, lines 45-65]

transferring said plurality of characteristics to a server coupled with a database [external database, col 2, lines 30-40, col 2, lines 55-65]

storing said fingerprint/landmark pairs in said database [remote database 50, Fig 2]

Yankowski discloses the elements of claim 19 as noted above but does not disclose processing the plurality of parameters into a plurality of fingerprints/landmark pairs. AAPA discloses processing the plurality of parameters into a plurality of fingerprints/landmark pairs [paragraph 65]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Yankowski to include processing the plurality of parameters into a plurality of fingerprints/landmark pairs as taught by AAPA for the purpose of improving storage access and maintenance of data [col 1, lines 5-10].

Claims 29, 30 44 and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yankowski in view of US Pat No 6,819,721 issued to Kobayashi et al (hereafter Kobayashi et al (hereafter Kobayashi)

Claims 29, 30, 44 and 45 :

Yankowski discloses the elements of claims 19 and 27/42 as noted above but does not disclose wherein said compiling a list of distinctive and reproducible points in time at which fingerprints should be calculated comprises calculating the instantaneous power at said points in time and selecting a power maxima within those points in time. Kobayashi discloses an instantaneous power maximum value detector for detecting the maximum value of the instantaneous power for a certain period [col 4, lines 37-41]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Yankowski to include wherein said compiling a list of distinctive and reproducible points in time at which fingerprints should be calculated comprises calculating the instantaneous power at said points in time and selecting a power maxima within those points in time based on the teachings of Kobayashi for the purpose of controlling power to optimize power transmission [col 2, lines 35-38].

*Conclusion*

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

### ***Response to Arguments***

Applicant's arguments with respect to claims 18-51 filed 4/20/2006 have been considered but are moot in view of the new ground(s) of rejection necessitated by Applicant's claim amendments.

### ***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Etienne P. LeRoux whose telephone number is (571) 272-4022. The examiner can normally be reached Monday through Friday between 8:00 am and 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Gaffin can be reached on (571) 272-4146. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

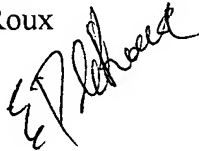


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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Etienne LeRoux

5/23/2006

A handwritten signature in black ink, appearing to read 'Etienne LeRoux', is written over the date '5/23/2006'.